

Appl. No. 09/595,256
Amdt. Dated November 11, 2004
Reply to Office Action of August 12, 20004

• • R E M A R K S / A R G U M E N T S • •

The Official Action of August 12, 2004 has been thoroughly studied. Accordingly the changes presented herein for the claims, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment, independent claim 1 has been changed to recite that the covering zone includes a terminal longitudinal edge which coincides with terminal longitudinal edges of each of the topsheet and backsheet and to further recite that the elastic zone is a separate and discrete element from each of the topsheet and the backsheet.

Support for the changes to independent claim 1 can be readily found in Fig. 2 in which the elastic zone 18 is shown as being a separate element from topsheet 2 and backsheet 3, and in which the covering zones 21 and 22 are shown as having terminal longitudinal edges.

It is noted that the changes presented herein for independent claim 1 are commensurate with the comments that the Examiner made in the *Claim Language Interpretation* section of the Official Action bridging pages 2 and 3.

Applicant acknowledges his appreciation for the Examiner's having explained how the language of claim 1 was being interpreted and those features of applicant's invention which were not accurately being recited.

Entry of the changes to the claims is respectfully requested.

Claims 1-6 and 8 are pending in this application.

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Claims 1-6 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,601,547 to Kato et al.

Claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kato et al. in view of European Patent Application No. 0 688 550 to Kimberly-Clark and U.S. Patent No. 4,397,646 to Daniels et al.

For the reasons set forth below, it is submitted that all of the pending claims are allowable over the prior art relied upon by the Examiner and therefore, each of the outstanding prior art rejections should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

Kato et al. is directed to a child's disposable absorbent training pants. The Examiner has relied upon Kato et al. as teaching a front waist regions 24, a rear waist region 26, a crotch region 28, a waist opening 30, leg openings 32, a top sheet 48 (made of one or more layers), a backsheet 46 (made of one or more layers), a covering zone that "is at least a portion of 24 and 26 except for the elastic zone," a longitudinal end of the covering zone 60, "the first member, 66 or 140, and second member, 62 or 132, as claimed on lines 20-27 of claims 1."

Kato et al. does not teach a covering zone that has a terminal longitudinal edge which coincides with terminal longitudinal edges of each of a topsheet and backsheet.

Kato et al. teach an outer cover 46 and a liner 48 which the Examiner has construed as being applicant's claimed backsheet and topsheet, respectively.

The outer cover 46 of Kato et al. includes an outer layer 50 and an inner layer 52.

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As shown in Figs. 2 and 3, Kato et al. fails to teach an embodiment in which the elastic zone is a separate and discrete element from each of the outer cover 46 and liner 48, which elastic zone extends beyond a terminal longitudinal edge of the covering zone (construed by the Examiner as a portion of panel 24 or 26), which terminal longitudinal edge coincides with terminal longitudinal edges of each of the outer cover 46 and liner 48.

In the embodiment of the invention depicted in Fig. 2 Kato et al. attaches waist elastic system 60 (construed by the Examiner as applicant's claimed elastic zone), to an extension of outer layer 50. Accordingly, in this embodiment, the covering zone does not include a terminal edge that coincides with terminal longitudinal edges of each of the outer cover 46 and liner 48.

In the embodiment of the invention depicted in Fig. 3 Kato et al. forms the waist elastic system 60 from a portion of the outer layer.

It is noted that Kato et al. is concerned with reducing the number of layers that the waist elastic system 60 must gather (see column 4, line 1-15).

Accordingly, it would go against the express teachings of Kato et al. to eliminate the extended portion of outer layer 50 as shown in Fig. 2 and attach the waist elastic system 60 over the ends of each of the outer layer 50, inner layer 52 and liner 48, because such a modification would require the waist elastic system 60 to gather more layers of material.

It is clear that Kato et al. requires separation between at least inner layer 52 and liner 48 and the elastic system 60.

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Based upon the above, it is submitted that Kato et al. does not anticipate applicant's invention as presently claimed.

The Examiner has relied upon each of Kimberly-Clark and Daniels et al. as teaching elastic systems for leg openings.

The Examiner's further reliance upon each of Kimberly-Clark and Daniels et al. does not address or overcome the differences between the present invention and Kato et al. as discussed above.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicant's claimed invention.

Moreover the Examiner cannot properly rely upon the prior art as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicant's claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejections of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

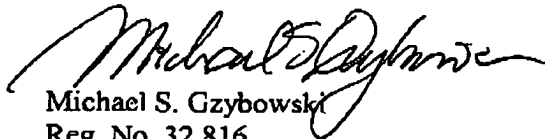
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It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicant's patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,


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